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5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA
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8 ROBERT M. DRUMMOND,
9 Plaintiff,

10 vs.

11 SOUTHWEST COUNCIL OF CARPENTERS,
12 Defendant.
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Case No. 2:14-cv-01242-APG-GWF

FINDINGS AND
RECOMMENDATION

14 This matter comes before the Court on Plaintiff Robert M. Drummond's ("Plaintiff") failure
15 to file an Amended Application to Proceed *in Forma Pauperis* or in the alternative to pay the filing
16 fee pursuant to Order (#4).

17 This matter commenced on July 29, 2014, with the filing of Plaintiff Drummond's
18 complaint and motion/application to proceed *in forma pauperis* (#1). Plaintiff's motion to proceed
19 *in forma pauperis* was denied without prejudice because his reported income exceeded his
20 expenses. Plaintiff filed an amended application on August 8, 2014, which was similarly denied.
21 Plaintiff was ordered to file an amended application to proceed *in forma pauperis* or to pay the
22 filing fee within thirty (30) days of the order dated August 15, 2014. Plaintiff was cautioned that
23 failing to do so may result in the dismissal of his action.

24 Pursuant to Fed. R. Civ. P. 41(b), the Court may dismiss an action with prejudice if the
25 Plaintiff fails to prosecute or to comply with these rules or a court order. Pursuant to Order #4,
26 Plaintiff had until September 15, 2014 to file an amended application to proceed *in forma pauperis*
27 or to pay the filing. Notice was mailed to Plaintiff on August 15, 2014. More than thirty days have
28 elapsed since the order was mailed and Plaintiff has not filed an application or paid the filing fee

1 pursuant to the Court's Order (#4). The Complaint therefore has neither been screened nor filed
2 with the Court. Accordingly,


3 **RECOMMENDATIONS**

4 **IT IS HEREBY RECOMMENDED** that this case be **closed**.

5 **NOTICE**

6 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be
7 in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has
8 held that the courts of appeal may determine that an appeal has been waived due to the failure to
9 file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit
10 has also held that (1) failure to file objections within the specified time and (2) failure to properly
11 address and brief the objectionable issues waives the right to appeal the District Court's order
12 and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153,
13 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

14 DATED this 17th day of September, 2014.

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17 GEORGE FOLEY, JR.
18 United States Magistrate Judge
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